

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation ("ministry"), reconsideration decision dated November 12, 2013 wherein the ministry determined that the appellant's request for a moving supplement did not meet the legislated criteria prescribed under section 55 of the Employment and assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry determined that: (a) the appellant had not received the ministry's approval before incurring the moving costs, as prescribed under section 55(3)(b) of EAPWDR, (b) it was not satisfied that as a result of the move, the appellant had significantly reduced his shelter costs, as prescribed under section 55(2)(d) of EAPWDR; and (c) it was not satisfied that the moving cost of \$400.00 was the least expensive appropriate mode of moving, as required under section 55(4).

PART D – Relevant Legislation

-Employment and Assistance Persons with Disabilities Regulation (EAPWDA) -section 5
- Employment and Assistance Persons with Disabilities Regulation (EAPWDR)-sections 55(2), (3) and (4)

PART E – Summary of Facts

The relevant evidence before the ministry at the time of the reconsideration decision included the following:

1. Shelter Information dated May 1, 2012 signed by the appellant, which states that on the said date, his monthly rent was \$492.00;
2. Shelter Information dated October 1, 2013 signed by the appellant, which states that on the said date, his monthly rent was \$1260.00;
3. A letter dated October 24, 2013 from the appellant to the ministry that states that he had moved to a new location on October 19, 2013 and requests reimbursement of \$400.00 as estimated moving costs; and
4. Request for Reconsideration completed by the appellant on October 28, 2013, which states that he had informed the relevant mover that the ministry would pay the moving costs to the mover after the move. It also states that the relevant mover had "underbid" another mover named by the appellant.

Subsequent to the date of the reconsideration decision, the appellant has submitted a Notice of Appeal dated November 18, 2013, which states the appellant's original monthly rent was \$730.00 and is now \$630.00, as his roommate has moved out.

The appellant did not participate in the teleconference hearing. The panel confirmed that the appellant was notified of the date and time of the teleconference hearing and the hearing proceeded under section 86(b) of the Employment and Assistance Act.

At the hearing, the ministry relied upon the reconsideration decision and submitted that applicants for a moving supplement are first of all required to meet the eligibility criteria prescribed under section 55, which requires (a) ministry's prior approval before the moving costs are incurred; (b) the cost of moving is the least expensive appropriate mode; and (c) the move, amongst other things, would significantly reduce the shelter cost of the appellant.

The ministry further contended that: (i) the appellant had not obtained ministry's approval before incurring the moving costs, and in actual fact, the appellant had moved before even his eligibility for the move was determined by the ministry; (ii) the monthly rent of the appellant after the move is \$630.00, which is more than his rent of \$492.00 that is currently being paid by the ministry; (iii) the appellant did not provide to the ministry at least two quotes to enable the ministry to determine whether the moving cost requested by the appellant was the least expensive for the move. Therefore the ministry denied the request of the appellant for the moving supplement of \$400.00

Based on the foregoing and the contents of the reconsideration decision, the panel makes the following findings of fact:

1. The appellant has not received ministry's approval prior to the move of the appellant to a new shelter location;
2. The appellant's rent at his new shelter location amounting to \$630.00 is higher than his rent at his previous shelter location; and
3. The appellant had not submitted any quotes for the moving costs prior to his move.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated November 18, 2013, which determined that the appellant's request for a moving supplement did not meet the legislated criteria prescribed under section 55 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry determined that: (a) the appellant had not received the ministry's approval before incurring the moving costs, as prescribed under section 55(3)(b) of EAPWDR; (b) it was also not satisfied that as a result of the move, the appellant had significantly reduced his shelter costs, as prescribed under section 55(2)(d) of EAPWDR; and (c) it was not satisfied that the moving cost of \$400.00 was the least expensive appropriate mode of moving, as required under section 55(4).

The relevant legislation applicable to issues under the appeal is as follows:

Employment and Assistance for Persons with Disability Act

Part 2 - Assistance

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance for Persons with Disability Regulation

Supplements for moving, transportation and living costs

55 (1) In this section:

"living cost" means the cost of accommodation and meals;

"moving cost" means the cost of moving a family unit and its personal effects from one place to another;

"transportation cost" means the cost of travelling from one place to another.

(2) Subject to subsections (3) and (4), the minister may provide a supplement to or for a family unit that is eligible for disability assistance or hardship assistance to assist with one or more of the following:

(a) moving costs required to move anywhere in Canada, if a recipient in the family unit is not working but has arranged confirmed employment that would significantly promote the financial independence of the family unit and the recipient is required to move to begin that employment;

(b) moving costs required to move to another province or country, if the family unit is required to move to improve its living circumstances;

(c) moving costs required to move within a municipality or unincorporated area or to an

adjacent municipality or unincorporated area because the family unit's rented residential accommodation is being sold or demolished and a notice to vacate has been given, or has been condemned;

(d) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area if the family unit's shelter costs would be significantly reduced as a result of the move;

(e) moving costs required to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit;

(f) transportation costs and living costs required to attend a hearing relating to a child protection proceeding under the *Child, Family and Community Service Act*, if a recipient is given notice of the hearing and is a party to the proceeding.

(g) transportation costs, living costs, child care costs and fees resulting from

(i) the required attendance of a recipient in the family unit at a hearing, or

(ii) other requirements a recipient in the family unit must fulfil in connection with the exercise of a maintenance right assigned to the minister under section 17 [categories that must assign maintenance rights]. (B.C. Reg. 275/2004)

(3) A family unit is eligible for a supplement under this section only if

(a) there are no resources available to the family unit to cover the costs for which the supplement may be provided, and

(b) a recipient in the family unit receives the minister's approval before incurring those costs.

(4) A supplement may be provided under this section only to assist with

(a) the cost of the least expensive appropriate mode of moving or transportation, and

(b) in the case of a supplement under subsection (1) (f) or (g), the least expensive appropriate living costs. (B.C. Reg. 275/2004)

Although the appellant did not participate in the hearing, the panel notes from the Appeal Record, including the Notice of Appeal dated November 18th filed by the appellant, that the appellant's case is that his shelter cost has been reduced from \$730.00 to \$630.00 after the move. He has not presented any explanation as to why he did not obtain ministry's approval for the moving costs prior to his move, nor has he submitted any quotes relating to the estimated cost of the move prior to the move to enable the ministry to determine which quote is the least expensive cost of the move. The appellant has not made any submission relating to his previous monthly shelter allowance of \$492.00 described in the Shelter Information dated May 1, 2012.

The ministry's case is that it had not approved the moving costs of the appellant before the move, as required under section 55(3)(b) of EAPWDR; the monthly rent of the appellant after the move is \$630.00, which is more than his rent of \$492.00 that is currently being paid by the ministry and therefore it does not meet the criteria prescribed under section 55(2)(d); and the appellant did not provide at least two quotes to the ministry to be able the ministry to determine whether the moving cost requested by the appellant was the least expensive for the move, as required under section 55(4). As the appellant did not meet any of the three said criteria, his request for the moving supplement of \$400.00 was denied

Section 5 of the EAPWDA gives discretion to the ministry to provide a moving supplement to an eligible applicant if the appellant meets the criteria prescribed under section 55 of the EAPWDR. Section 55(3)(b) requires that the applicant receive the ministry's approval. Having regard to the findings of fact in Part E of this decision, the panel finds that the ministry reasonably determined that the appellant has not met this legislated criteria.

Criterion, amongst others, prescribed under section 55(2)(d) is that as a result of the move, the appellant's shelter cost is significantly reduced. According to the ministry, the appellant's current shelter allowance is \$492.00. However, the appellant has indicated: (a) in his Shelter Information dated October 1, 2013 that his rental cost is \$1260.00 for "one adult"; and (b) in his Notice of appeal dated November 18, 2013 that his current rental cost is \$630.00. These amounts are, in fact, higher than the appellant's current shelter allowance of \$492.00. Therefore, and having regard to the panel's finding of fact in Section E of this decision, the panel finds that the ministry reasonably determined that the appellant has not met this second relevant legislated criteria or any of the criteria set out in section 55(2).

The third and the final criteria relevant in the context of this appeal is prescribed under section 55(4), which requires that a moving supplement may be provided by the ministry to the appellant only to assist with the cost of the least expensive appropriate mode of moving. In the present case, the panel notes that the appellant has not provided any quotes relating to the estimated cost of moving prior to or subsequent to the move. Therefore, the panel finds that the ministry reasonably determined that the appellant has not met the third relevant legislated criteria.

The panel notes that the relevant legislation requires that the appellant has to meet the criteria of sections 55(2), (3) and (4) to be eligible for a moving supplement. As he has not met any of the said criteria, the panel finds that the ministry's reconsideration decision was reasonably supported by evidence and is a reasonable application of the relevant enactment in the circumstances of the appellant. Therefore, the panel confirms the ministry's reconsideration decision.